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MONTANA CONSTITUTIONAL CONVENTION

1971-1972

REPORT OF COMMITTEE ON STYLE, DRAFTING, TRANSITION AND SUBMISSION

ON

NATURAL RESOURCES AND AGRICULTURE

No. VI

Date Reported: March 10, 1972

John M. Schultz, Chairman

William L. Puckett, Vice Chairman

TO: Montana Constitutional Convention

SUBJECT: NATURAL RESOURCES AND AGRICULTURE

Ladies and Gentlemen:

The Committee on Style, Drafting, Transition and Submission transmits revisions of the above Article for consideration of the Convention.

Immediately following this letter you will find the above Article as revised by the Committee. Following that is the Article indicating (by underlining) words we have added and (by crossing out) words we have deleted from the Article as approved. Finally, there is an explanation of the changes we have made.

Sincerely,



John M. Schiltz, Chairman of the
Committee on Style, Drafting,
Transition and Submission



William A. Burkhardt, Vice Chairman
of the Committee on Style, Drafting,
Transition and Submission

1 BE IT PROPOSED BY THE NATURAL RESOURCES AND AGRICULTURE
2 COMMITTEE:

3 That there be a new Article on the Environment and
4 Agriculture to read as follows:

5
6 ARTICLE _____

7 ENVIRONMENT AND NATURAL RESOURCES

8 Section 1. PROTECTION AND IMPROVEMENT. (1) The state
9 and each person shall maintain and improve a clean and health-
10 ful environment in Montana for present and future generations.

11 (2) The legislature shall provide for the administration
12 and enforcement of this duty.

13 (3) The legislature shall provide adequate remedies for
14 the protection of the environmental life support system from
15 degradation and provide adequate remedies to prevent unreason-
16 able depletion and degradation of natural resources.

17 Section 2. RECLAMATION. All lands disturbed by the
18 taking of natural resources shall be reclaimed. The legisla-
19 ture shall provide effective requirements and standards for
20 the reclamation.

21 Section 3. WATER RIGHTS. (1) All existing rights to
22 the use of any waters for any useful or beneficial purpose
23 are hereby recognized and confirmed.

24 (2) The use of all water that is now or may hereafter
25 be appropriated for sale, rent, distribution, or other
26 beneficial use, the right of way over the lands of others
27 for all ditches, drains, flumes, canals, and aqueducts
28 necessarily used in connection therewith, and the sites for
29 reservoirs necessary for collecting and storing water shall
30 be held to be a public use.

1 (3) All surface, underground, flood, and atmospheric
2 waters within the boundaries of the state are the property
3 of the state for the use of its people and are subject to
4 appropriation for beneficial uses as provided by law.

5 (4) The legislature shall provide for the administra-
6 tion, control, and regulation of water rights and shall
7 establish a system of centralized records, in addition to
8 the present system of local records.

9 Section 4. CULTURAL RESOURCES. The legislature shall
10 provide for the identification, acquisition, restoration,
11 enhancement, preservation, and administration of scenic,
12 historic, archeologic, scientific, cultural, and recreational
13 areas, sites, records and objects, and for their use and
14 enjoyment by the people.

1 BE IT PROPOSED BY THE NATURAL RESOURCES AND AGRICULTURE
2 COMMITTEE:

3 That there be a new Article on the Environment and
4 Agriculture to read as follows:

6 ARTICLE _____

7 ENVIRONMENT AND NATURAL RESOURCES

8 Section 1. PROTECTION AND ~~ENHANCEMENT~~ IMPROVEMENT. (1)

9 The ~~Sstate of Montana~~ and each person ~~must~~ shall maintain and
10 improve a clean and healthful ~~the Montana~~ environment in
11 Montana for present and future generations.

12 (2) The legislature ~~must~~ shall provide for the adminis-
13 tration and enforcement of this duty.

14 (3) The legislature ~~is directed to~~ shall provide ade-
15 quate remedies for the protection of the environmental life
16 support system from degradation and ~~to~~ provide adequate
17 remedies to prevent unreasonable depletion and degradation
18 of natural resources.

19 Section 2. RECLAMATION. All lands disturbed by the
20 taking of natural resources ~~must~~ shall be reclaimed. The
21 legislature shall provide effective requirements and standards
22 for the reclamation ~~of lands disturbed by the taking of~~
23 ~~natural resources~~.

24 Section 3. WATER RIGHTS. (1) All existing rights to
25 the use of any waters ~~in this state~~ for any useful or
26 beneficial purpose are hereby recognized and confirmed.

27 (2) The use of all water that is now or may hereafter
28 be appropriated, ~~or that may hereafter be appropriated~~ for
29 sale, rental, distribution, or other beneficial use, ~~and the~~
30 right of way over the lands of others, for all ditches,

1 drains, flumes, canals, and aqueducts, necessarily used in
2 connection therewith, as well as and the sites for reservoirs
3 necessary for collecting and storing ~~the same~~, water shall be
4 held to be a public use.

5 (3) All surface, underground, flood, and atmospheric
6 waters within the boundaries of the state ~~of Montana~~ are
7 ~~declared to be~~ the property of the state for the use of its
8 people and are subject to appropriation for beneficial uses as
9 provided by law.

10 (4) The legislature shall provide for the administra-
11 tion, control, and regulation of water rights and shall
12 establish a system of centralized records, in addition to
13 the present system of local ~~filing of~~ records.

14 Section 4. CULTURAL RESOURCES. The legislature ~~must~~
15 shall provide for the identification, acquisition, restoration,
16 enhancement, preservation, and administration of scenic,
17 historic, archeologic, scientific, cultural, and recreational
18 areas, sites, records and objects, and for their use and
19 enjoyment by the people.
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Report No. VI - ENVIRONMENT AND NATURAL RESOURCES
COMMENTS ON STYLE, FORM, AND GRAMMAR

Section 1. (1) The Committee added "a" before "clean and healthful", and deleted "the Montana" before environment and added "in Montana" thereafter, in order to preserve what was recalled to be the sense of amendments adopted in Committee of the Whole. Other changes in the section do not alter substance.

Section 2. Deletion of repetition at the end of the second sentence does not alter substance.

Section 3. Reordering and deletion of language do not alter substance. It should be noted, however, that the substantive committee comments appended to subsection (2) were that section 15, Article III, of the present constitution were duplicated verbatim "to preserve the substantial number of court decisions interpreting and incorporating the language."

1 BE IT PROPOSED BY THE NATURAL RESOURCES AND AGRICULTURE
2 COMMITTEE:

3 That there be a new Article on Agriculture to read as
4 follows:

5
6 ARTICLE _____
7 AGRICULTURE

8 Section 1. DEPARTMENT OF AGRICULTURE. There is a
9 Department of Agriculture. The legislature shall enact laws
10 and provide appropriations to protect, enhance, and develop
11 all agriculture.

12 Section 2. SPECIAL LEVIES. Special levies may be made
13 on livestock and on agricultural commodities for disease
14 control and indemnification, predator control, and livestock
15 and commodity inspection, protection, research, and promo-
16 tion. Revenue derived shall be used solely for the purposes
17 of the levies.

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1 BE IT PROPOSED BY THE NATURAL RESOURCES AND AGRICULTURE
2 COMMITTEE:

3 That there be a new Article on Agriculture to read as
4 follows:

5
6 ARTICLE _____
7 AGRICULTURE

8 Section 1. DEPARTMENT OF AGRICULTURE. ~~The legislative~~
9 ~~assembly must provide for~~ There is a Department of Agriculture.
10 ~~and The legislature shall~~ enact laws and provide appropriations
11 to protect, enhance, and develop all agriculture of the state.

12 Section 2. ~~RIGHT TO~~ SPECIAL LEVIES. A ~~special levy~~
13 levies may be made on livestock and on agricultural commodities
14 for the purpose of disease control and indemnification, predator
15 control, and livestock inspection and protection, agricultural
16 commodity inspection, and protection, livestock and agricultural
17 commodity research, and promotion. Revenue derived from such
18 levies shall be used solely for the purposes of the levied
19 levies.
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Report No. VI - AGRICULTURE
COMMENTS ON STYLE, FORM, AND GRAMMAR

Section 1. The first sentence has been changed to accord with usually accepted drafting rules. Neither that change nor those in the second sentence alter substance.

Section 2. The singular noun which is the subject of the sentence was made plural to accord with reality and the usage in the title and the second sentence.

